

Service Date: March 13, 1978

BEFORE THE UTILITY DIVISION  
DEPARTMENT OF PUBLIC SERVICE REGULATION  
MONTANA PUBLIC SERVICE COMMISSION

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IN THE MATTER of the Application	)	
of STEELE WATER SUPPLY for au-	)	DOCKET NO. 6536
thority to adopt increased water rates.	)	
	)	ORDER NO. 4408
_____	)	

APPEARANCES

For the Applicant:

Mr. Homer Steele, 150 Steele Drive, Columbia Falls, Montana 59912

Mrs. Joyce Steele, 150 Steele Drive, Columbia Falls, Montana 59912

John B. Dudis, Attorney at Law, One Main Building, Kalispell, Montana 59912

For the Protestants:

Geoffrey L. Brazier, Attorney at Law, Montana Consumer Counsel, 34 West Sixth Avenue, Helena, Montana 59601

For the Commission:

James Paine, Staff Attorney

Dennis Crawford, Deputy Administrator, Utility Division

Before:

Commissioner George Turman

STATEMENT OF THE CASE

The hearing on this application was held in the Columbia Falls City Council Chambers, Columbia Falls, Montana, on December 7, 1977. The Applicant's case was presented by Mr. and Mrs. Homer Steele and Mr. John B. Dudis, Attorney for the Applicant.

Mr. Steele testified to the history, operation and present condition of the system. Continuing testimony by Mr. Steele dealt with the required capital improvements, financial condition of the company, and how the improvements would be accomplished and financed.

Applicant proposes to install a 5,000 gallon holding tank, which he acquired some years ago, to add either a 5 hp pump or two (2) 3 hp pumps to increase the water pressure in the system.

Applicant testified that the company has not paid any wages during the twenty-nine (29) years of operation, and that any operating deficit had to be made up out of his own funds. Applicant testified that no one has ever been shut off because of non-payment of their water bill.

Public witnesses appearing at the hearing complained of, among other things, poor water pressure and no water at times. Others testified they were not opposed to the rate increase if the water pressure was improved. There, was testimony received in support of the higher rates.

The primary concern of the public witnesses, as evidenced by their testimony and written submissions, is assurance that the revenues derived from any increased water rates will be, in fact, dedicated to improving the water system; according to the Applicant, it is the primary purpose of the rate increase application to obtain increased revenues for the purpose of improving the water system.

Some of the other concerns expressed by the public witnesses include: that Mr. Steele's proposed improvements are inadequate and will not correct the deficiencies which ought to be corrected, and that water meters would correct the inequities which will exist under the proposed rates.

Mrs. Steele's testimony dealt with her involvement in the bookkeeping for the utility.

FINDINGS OF FACT

1. Steele Water Supply is a public utility serving customers within the State of Montana with water service.

2. On September 27, 1977, the Montana Public Service Commission officially accepted as filed the petition of the Steele Water Supply (applicant) for increased rates for water service. A notice of proposed hearing was published as a legal advertisement in the Daily Inter Lake and the Hungry Horse News. Protests and requests for a hearing were received by the Commission.

3. A hearing was scheduled and a notice of public hearing was published in the above newspapers.

4. A public hearing was held in the Columbia Falls City Council Chambers, Columbia Falls, Montana, at 10:00 a.m. on Wednesday, December 7, 1977.

5. Applicant serves approximately thirty (30) customers with water service.

6. The proposed increased rates will generate an additional annual revenue of approximately \$2,500.00.

7. Applicant alleges that the rate increase is necessary to offset increased operating expenses and to finance needed improvements to the system. The record is devoid, however, of any evidence which depicts what amount of the proposed rate increase is intended to be applied to operating expenses and what amount will be applied to capital improvements.

8. The estimated cost of the improvement program is \$5,370.00. Applicant has demonstrated that the only means of financing available to Applicant for capital improvements is monies derived from increased water rates.

9. Several parties, including Consumer Counsel and the Applicant, through counsel, were amenable to having the Applicant maintain a separate fund for that portion of the requested increase intended to be applied to capital improvements. This procedure would guarantee that the Applicant would not be able to earn a return on the money supplied or advanced by the utility ratepayers for capital improvements.

10. The Applicant testified that he intended to commence in the spring of 1978 and complete in the fall of 1978 those capital improvements which he deemed necessary.

11. No records are available to determine the original cost of the utility. No records were maintained relative to plant costs or installation costs. The water system was installed in 1949 by Mr. Homer Steele and his father.

Further, Applicant's records and bookkeeping relative to operating revenues and expenses and rate base generally are inadequate.

### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter in these proceedings.

2. The rates and charges authorized herein are just and reasonable. Further, the resultant increased revenues are critical to continued existence of the public utility in question.

3. This Commission is fully cognizant of its duty to be consistent when setting rates for the public utilities subject to Commission jurisdiction, and that when the Commission temporarily departs from its prior ratemaking policies and standards, it will supply a reasoned analysis for such departure from precedents. See, Atchison T. & S.F. RR. Co. v. Wichita Board of Trade, 412 U.S. 800, 808 (1973); Distrigas of Mass. Corp. v. F.P.C., 517 F.2d 761, 765-766 (CA1, 1975); Garrett v. F.C.C., 513 F.2d 1056, 1060 (CA10, 1975); N.L.R.B. v. Silver Bay Local Union, 498 F.2d 26 (CA9, 1974); Sirbo Holdings, Inc. v. Commissioner of Internal Revenue, 476 F.2d 981, 987 (CA2, 1973); International Union v. N.L.R.B., 459 F.2d 1329, 1341 (CA10, 1972); Larus & Bro. Inc. v. F.C.C., 447 F.2d 876 (CA4, 1971); and, Greater Boston Television Corp. v. F.C.C., 444 F.2d 841, 852 (CA1, 1971), cert. den. 403 U.S. 923 (1971),

### ORDER

THE MONTANA PUBLIC SERVICE COMMISSION ORDERS THAT:

1. The authorized changes to the present tariff are as follows:

The present and proposed monthly rates are:

	Present	Proposed
Residential	\$5.00	\$10.00
Commercial	\$5.00	\$15.00
Apartment per unit	\$3.50	\$10.00
Sprinkling privilege		\$ 5.00 month for months of June, July and August
Sprinkling for gardens or laws on vacant lots		\$15.00 per month. An additional charge per month, per lot for June, July and August
Prompt Payment Discount:	\$00.00	
Minimum Bill:	\$10.00	
Special Terms and Conditions	All water bills to be paid by the 15th day of the month.	

2. The Applicant shall immediately commence to improve its recordkeeping system. Part of this improvement process shall include the following: 1. Maintenance of a separate fund for that portion of the requested increase intended to be applied to capital improvements and, because the record is devoid of evidence depicting what amount of the proposed rate increase is intended to be applied to operating expenses and what amount will be applied to capital improvements, yet does depict that the need for capital improvements was the primary reason for the rate increase application, the Commission directs that 40 percent of the increased revenues be put into said separate fund with the remaining 60 percent going to meet operating expenses; 2. Maintenance of records which document operating revenues and operating revenue deductions; 3. Maintenance of records which permit the determination of the original cost of all future plant items or additions.

3. The Applicant shall make every effort to keep his promise that the improvements he described will begin in the spring of 1978 and be completed in the fall of 1978. In this regard, the Applicant shall submit to the Commission and Consumer Counsel capital improvement progress reports, such reports to be first filed on May 1, 1978, and thereafter on a bi-monthly basis until such program is completed.

Should the Applicant fail to make the promised improvements by January 1, 1979, the Commission will examine the reasons and circumstances for such failure and then determine if a rebate with interest is appropriate with respect to the customer contributed capital.

4. Requested findings not specifically discussed or reflected herein have been considered and found not justified or their resolution unnecessary for the proper disposition of this proceeding.

5. Applicant shall file rate schedules with this Commission effective for water service rendered on and after April 1, 1978, which shall reflect total annual revenue increases of \$2,500.00 on water service.

DONE IN OPEN SESSION, by a vote of 4 - 0 , this 13th day of March, 1978.

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Gordon E. Bollinger, Chairman

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Thomas J. Schneider, Commissioner

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James R. Shea, Commissioner

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George Turman, Commissioner

ATTEST:

Madeline L. Cottrill  
Secretary

(SEAL)

NOTICE:     You are entitled to judicial review of this order. Judicial review may be obtained by filing within thirty (30) days from the service of this order, a petition for review pursuant to Section 82-4216, R.C.M. 1947.